

LEGISLATURE OF THE STATE OF IDAHO  
Sixty-first Legislature First Regular Session - 2011

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 129

BY COMMERCE AND HUMAN RESOURCES COMMITTEE

AN ACT

RELATING TO DAYCARE; AMENDING SECTION 33-1501, IDAHO CODE, TO REVISE TERMINOLOGY AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 39-1101, IDAHO CODE, TO REVISE POLICY; AMENDING SECTION 39-1102, IDAHO CODE, TO DEFINE AND REVISE TERMS; AMENDING SECTION 39-1103, IDAHO CODE, TO REMOVE PROVISIONS REGARDING DEPARTMENT OF HEALTH AND WELFARE AUTHORITY AND DUTY RELATING TO CERTAIN LICENSING AND TO REVISE AND ADD TO EXCEPTIONS FROM CHAPTER APPLICATION; AMENDING SECTION 39-1104, IDAHO CODE, TO PROVIDE FOR DEPARTMENT AUTHORITY AND DUTY RELATING TO CERTAIN LICENSING, TO REVISE TERMINOLOGY AND TO CLARIFY LANGUAGE; AMENDING SECTION 39-1105, IDAHO CODE, TO REVISE TERMINOLOGY, TO PROVIDE FOR A CODE REFERENCE, TO PROVIDE FOR PROHIBITION FROM LICENSURE AND DAYCARE OPERATION DUE TO CERTAIN OFFENSES, TO PROVIDE A QUALIFIED EXCEPTION FROM CHAPTER APPLICATION AND TO PROVIDE A PROHIBITION FROM CHILD CARE DUE TO CERTAIN OFFENSES; AMENDING SECTION 39-1106, IDAHO CODE, TO REVISE TERMINOLOGY, TO PROVIDE FOR A PROVISIONAL LICENSE UNDER CERTAIN CIRCUMSTANCES, TO REVISE REQUIREMENTS FOR AN APPLICATION FOR LICENSE RENEWAL, TO REVISE WHICH JUVENILE JUSTICE RECORDS MUST BE CHECKED, TO PROVIDE FOR NONRENEWAL OF A LICENSE UNDER CERTAIN CIRCUMSTANCES AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 39-1107, IDAHO CODE, TO REVISE CERTAIN FEES AND THE TYPES OF PROVIDERS SUBJECT TO CERTAIN FEES AND TO REVISE TERMINOLOGY; AMENDING SECTION 39-1108, IDAHO CODE, TO REVISE TO WHICH PROVIDERS THE LOCAL OPTION APPLIES AND TO REVISE TERMINOLOGY; AMENDING SECTION 39-1109, IDAHO CODE, TO REVISE DAYCARE SAFETY AND STAFFING REQUIREMENTS; AMENDING SECTION 39-1110, IDAHO CODE, TO REVISE TERMINOLOGY; AMENDING SECTION 39-1111, IDAHO CODE, TO REVISE TERMINOLOGY; AMENDING SECTION 39-1113, IDAHO CODE, TO REVISE TERMINOLOGY, TO REVISE EXCEPTIONS FROM SPECIFIED LICENSURE AND TO PROVIDE A TIME LIMIT ON REAPPLICATION; AMENDING SECTION 39-1114, IDAHO CODE, TO REMOVE PROVISIONS RELATING TO CERTAIN REQUIREMENTS FOR CERTAIN PROVIDERS AND TO PROVIDE FOR THE ISSUANCE OF A CERTAIN VOLUNTARY LICENSE; AMENDING SECTION 39-1115, IDAHO CODE, TO REVISE TERMINOLOGY, TO REVISE WHEN CERTAIN CRIMINAL PENALTIES SHALL APPLY AND TO CLARIFY LANGUAGE; AMENDING SECTION 39-1117, IDAHO CODE, TO CLARIFY LANGUAGE; AMENDING SECTION 39-1118, IDAHO CODE, TO REVISE TERMINOLOGY; AND AMENDING SECTION 39-1119, IDAHO CODE, TO CLARIFY LANGUAGE AND TO MAKE A TECHNICAL CORRECTION.

Be It Enacted by the Legislature of the State of Idaho:

SECTION 1. That Section 33-1501, Idaho Code, be, and the same is hereby amended to read as follows:

33-1501. TRANSPORTATION AUTHORIZED. (1) To afford more equal opportunity for public school attendance, the board of trustees of each district,

including specially chartered school districts, shall, where practicable, provide transportation for the public school pupils within the district, and pupils resident within adjoining districts annually agreed to in writing by the districts involved, under conditions and limitations herein set forth. Nonpublic school students may be transported, where practicable, when the full costs for providing such transportation are recovered. In approving the routing of any school bus, or in the maintenance and operation of all such transportation equipment, or in the appointment or employment of chauffeurs, the primary requirements to be observed by the board of trustees are the safety and adequate protection of the health of the pupils. Nothing herein contained shall prevent any board of trustees from denying transportation to any pupil in any school bus operated by or under the authority of said board, upon good cause being given, in writing, to the parents or guardian, or either of them, of such pupil.

(2) No board of trustees shall be required to provide transportation for any pupil living less than one and one-half (1 1/2) miles from the nearest appropriate school. A board of trustees may require pupils who live less than one and one-half (1 1/2) miles from the nearest established bus stop to walk or provide their own transportation to such bus stop. That distance shall be determined by the nearest and best route from the junction of the driveway of the pupil's home and the nearest public road, to the nearest door of the schoolhouse he attends, or to the bus stop, as the case may be. The board may transport any pupil a lesser distance when in its judgment the age or health or safety of the pupil warrants.

(3) A ~~day care~~ daycare center, ~~family day care~~ group daycare home, or a ~~group day care facility~~ family child care home, as defined in section 39-1102, Idaho Code, may substitute for the student's residence for student transportation to and from school. School districts may not transport students between a child daycare facilities and home. Student transportation between a child daycare facility and a school will qualify for state reimbursement providing that the child daycare facility is one and one-half (1 1/2) miles or more from the school to which the student is transported.

(4) To effectuate the public policy hereby declared, the board of trustees of any school district may purchase or lease, and maintain and operate school buses and vans, which vans shall not have a seating capacity in excess of fifteen (15) persons; may enter into agreements or contracts for the use of a charter bus or buses; may enter into contracts with individuals, firms, corporations or private carriers; or may make payments to parents or guardians, subject to the limitations herein provided, when transportation is not furnished by the district.

SECTION 2. That Section 39-1101, Idaho Code, be, and the same is hereby amended to read as follows:

39-1101. POLICY. It is hereby declared to be the policy of this state to establish a minimum statewide system for the protection of children in daycare facilities. This system is intended to establish minimum standards, while still leaving primary responsibility for evaluation and selection of daycare or child care services with parents. The minimum standards established by this chapter shall not be construed as preempting more stringent regulation by county or city ordinance.

SECTION 3. That Section 39-1102, Idaho Code, be, and the same is hereby amended to read as follows:

39-1102. DEFINITIONS. As used in this chapter:

(1) "Attendance" means the number of children present at a daycare facility for daycare.

(2) "Basic daycare license" means a license issued to a daycare facility by the department pursuant to this chapter.

(3) "Board" means the Idaho board of health and welfare.

(4) "Care" means the control, supervision or maintenance of a child or children for part of a twenty-four (24) hour day, whether or not for compensation.

~~(25)~~ "Child" means ~~a person~~ an individual less than thirteen (13) years of age.

(6) "Child:staff ratio" means the maximum number of children allowed under the direct care of one (1) staff person.

~~(37) "Daycare" means care and supervision of children provided for compensation during part of a twenty-four (24) hour day, when at any given time the care is provided for a child seven (7) or more children not related by blood, marriage or legal guardianship to the person or persons providing the care, in a place other than the child's or children's own home or homes.~~

(48) "Daycare center" means a place ~~or facility~~ providing daycare ~~for compensation for~~ where thirteen (13) or more children are in attendance at any given time.

~~(59) "Daycare facility" means a place or facility providing daycare services for compensation to seven (7) or more children not related to the provider center or a group daycare home.~~

~~(610)~~ "Department" means the Idaho department of health and welfare.

~~(7) "Employee" means any person working for compensation in a facility that provides daycare.~~

~~(811) "Family daycare child care home" means a home, place, or facility providing daycare for six (6) or fewer unrelated children.~~

~~(912) "Group daycare facility home" means a home, place, or facility providing daycare for where seven (7) to twelve (12) children are in attendance at any given time.~~

~~(10) "Group size" means the maximum number of children in one (1) group or classroom.~~

~~(11) "Mixed age group" means a care group that includes children of multiple ages.~~

~~(12) "Ratio" means the number of staff required to supervise a certain number of children.~~

~~(13) "Single age group" means a care group that includes children of similar age.~~

(13) "On-duty" means being awake and actively carrying out assigned duties at a daycare facility.

(14) "Operator" means a person who is delegated responsibility for the daily management of a daycare facility by the daycare owner.

(15) "Owner" means a person who has been issued a basic daycare license to operate a daycare facility.

1       (16) "Person" means any individual, sole proprietorship, corpora-  
2       tion, limited liability company, partnership, joint venture or association  
3       whether or not incorporated.

4       (17) "Related" means persons related by blood, marriage or adoption to  
5       a child or children, including the child's or the children's grandparent,  
6       great grandparent, aunt, great aunt, uncle, great uncle, brother, brother-  
7       in-law, sister, sister-in-law, stepparent and first cousin.

8       (18) "Staff" means a person who is employed by an owner or operator to  
9       provide care at a daycare facility.

10       (149) "Training" means continuing education in child development areas  
11       relating to child care. Training can be acquired through a variety of meth-  
12       ods including, but not limited to, the viewing of audio visual materials,  
13       correspondence courses, community workshops and in-house training.

14       SECTION 4. That Section 39-1103, Idaho Code, be, and the same is hereby  
15       amended to read as follows:

16       39-1103. LICENSING AUTHORITY EXEMPTIONS. ~~The department is hereby au-~~  
17       ~~thorized and directed to issue "basic daycare licenses" as provided in this~~  
18       ~~chapter. The department is authorized to establish procedures for issuing~~  
19       ~~licenses to daycare facilities which shall be maintained and operated in~~  
20       ~~conformity with the standards authorized in this chapter. Nothing in this~~  
21       ~~chapter shall be construed to limit or restrict the teaching of religious~~  
22       ~~doctrines, values, or tenets in a facility licensed under the provisions of~~  
23       ~~this chapter. The provisions of this chapter shall not apply to:~~

24       (1) The occasional care of a neighbor's, relative's or friend's child  
25       or children by a person not ordinarily in the business of providing daycare;

26       (2) The operation of a private school or religious school for edu-  
27       cational purposes for children over four (4) years of age or a religious  
28       kindergarten;

29       (3) The provision of ~~occasional~~ care exclusively for children of par-  
30       ents who are simultaneously in the same building;

31       (4) The operation of day camps, programs and religious schools for less  
32       than twelve (12) weeks during a calendar year or not more often than once a  
33       week; ~~or~~

34       (5) The provision of care exclusively for children ~~of a family within~~  
35       ~~the second degree of relationship~~ related to the individual providing care,  
36       except as subject to the requirements of the Idaho child care program for  
37       persons receiving benefits thereunder; or

38       (6) The operation of a daycare facility or family child care home regu-  
39       lated or licensed by a city or county in accordance with local options under  
40       section 39-1108, Idaho Code.

41       SECTION 5. That Section 39-1104, Idaho Code, be, and the same is hereby  
42       amended to read as follows:

43       39-1104. APPLICATION FOR LICENSE -- FIRE SAFETY AND HEALTH INSPEC-  
44       TIONS. (1) License. The department is hereby authorized and directed to  
45       issue basic daycare licenses as provided in this chapter. The department is  
46       authorized to establish procedures for issuing licenses to daycare facili-  
47       ties in conformity with the standards authorized in this chapter. Nothing

1 in this chapter shall be construed to limit or restrict the teaching of  
 2 religious doctrines, values or tenets in a facility licensed under the pro-  
 3 visions of this chapter.

4 (2) Application. A person who wishes to own or operate a daycare facil-  
 5 ity shall be a minimum of eighteen (18) years of age, shall submit an appli-  
 6 cation on the forms provided by the department, and shall obtain the required  
 7 certificates of inspection as provided herein.

8 (23) Inspections. A person who wishes to operate a daycare facility  
 9 shall submit:

10 (a) ~~aA~~ certificate of a fire inspection of the proposed ~~center~~ daycare  
 11 facility, conducted by a fire department or fire district official, es-  
 12 tablishing compliance with the minimum standards specified in section  
 13 39-1109, Idaho Code; and

14 (b) ~~aA~~ health and safety inspection of the proposed daycare facility  
 15 conducted by a qualified inspector as designated by the department, es-  
 16 tablishing compliance with the minimum standards specified in sections  
 17 39-1109 and 39-1110, Idaho Code.

18 (34) Continued compliance and reinspection. ~~Daycare facilities Owners~~  
 19 and operators shall at all times maintain compliance with the safety and  
 20 health requirements identified in this chapter. The department may cause  
 21 any daycare facility to be reinspected during the term of a license for  
 22 safety and health compliance as determined necessary by the department. No  
 23 charge for any reinspection after the initial inspection in any license pe-  
 24 riod shall be made to the ~~daycare facility~~ owner or operator.

25 SECTION 6. That Section 39-1105, Idaho Code, be, and the same is hereby  
 26 amended to read as follows:

27 39-1105. CRIMINAL HISTORY BACKGROUND CHECKS. (1) The department  
 28 shall obtain from the owner a criminal history background check on the own-  
 29 ers, operators and ~~employees~~ staff of a daycare facility who have direct  
 30 contact with children, and on all other individuals thirteen (13) years of  
 31 age or older who have unsupervised direct contact with children or are regu-  
 32 larly on the premises of a daycare facility. The criminal history background  
 33 check shall comply with section 56-1004A, Idaho Code, and include the fol-  
 34 lowing for all persons subject to the provisions of this section who are  
 35 eighteen (18) years of age or older:

- 36 (a) Statewide criminal identification bureau;
- 37 (b) Federal bureau of investigation (FBI) criminal history;
- 38 (c) National crime information center; and
- 39 (d) Statewide child abuse registry.

40 (2) Criminal history background checks on those persons under eighteen  
 41 (18) years of age shall include a check of the juvenile justice records of ad-  
 42 judications of the magistrate division of the district court, county proba-  
 43 tion services and department records as authorized by the minor and his par-  
 44 ent or guardian.

45 (3) Notwithstanding the provisions of section 39-1103, Idaho Code,  
 46 which provide for exemption from the provisions of this chapter, any per-  
 47 son who owns, operates or is employed by a private school for educational  
 48 purposes for children four (4) through six (6) years of age or a private  
 49 kindergarten shall comply with the provisions of this section.

(4) No person shall be issued a basic daycare license or be permitted to own or operate a daycare facility so long as any of the persons subject to the provisions of this section are found to have a disqualifying offense based upon the results of a criminal history background check conducted pursuant to this chapter.

(5) A person providing child care in a family child care home is not subject to the requirements of this chapter, except where the care is provided for compensation at any given time for four (4) to six (6) unrelated children, and where such care is not otherwise exempt under section 39-1103, Idaho Code, the person providing care shall obtain a criminal history background check complying with the standards of subsection (1) of this section. A person required to obtain a criminal history background check under this subsection shall not provide child care for four (4) or more unrelated children for compensation where the background check results are disqualifying under section 39-1113, Idaho Code.

SECTION 7. That Section 39-1106, Idaho Code, be, and the same is hereby amended to read as follows:

39-1106. ISSUANCE OF LICENSE -- BASIC, PROVISIONAL AND RENEWAL. (1) Upon receipt of the application, inspection certificates and the results of the criminal history background check, the department shall, upon a finding of compliance with the minimum standards set forth in this chapter, issue a basic daycare license to the applicant owner of the daycare facility. The license shall be valid for two (2) years and shall be posted in a conspicuous place at the daycare facility.

(2) If the department determines that an applicant for a basic daycare license is unable to meet the minimum standards set forth in this chapter because of conditions that are unlikely to endure beyond six (6) months from the date of the initial application or renewal, the department may, if in its judgment the health and safety of any child is not thereby endangered, issue a provisional license for a period not to exceed six (6) months. No more than one (1) provisional license shall be issued to the same daycare owner in any twelve (12) month period.

(3) The department shall send a renewal application to the owner of the daycare facility no later than ninety (90) days prior to the expiration of an existing license. The owner shall submit to the department the renewal application with the required renewal fee and an authorization for release to the department of the results of any required criminal history background check prior to the expiration of the existing license. A complete criminal history background check shall be provided obtained for any new persons requiring required to complete a criminal history background check in accordance with section 39-1105, Idaho Code. A limited criminal history background check shall be provided is required for those persons eighteen (18) years of age or older who where previously were checked as part of the prior renewal application, or who otherwise have obtained a complete criminal history background check within twelve (12) months of the license renewal date. The limited criminal history background check shall include:

- (a) Statewide criminal identification bureau; and
- (b) National crime information center; and
- ~~(c)~~ Statewide child abuse registry.

(34) Criminal history background checks on those persons under eighteen (18) years of age shall include a check of the juvenile justice records of adjudications of the magistrate division of the district court, county probation services and department records as authorized by the minor and his parent or guardian for the jurisdiction within which the minor resides.

(45) A basic daycare license shall not be renewed so long as any of the persons subject to the provisions of this section are found to have a disqualifying offense based upon the results of a criminal history background check conducted pursuant to this chapter.

(6) The department shall maintain a list of all licensees for public use.

(57) Submission of a renewal application, fee and required results of the criminal history background check shall entitle the daycare facility owner to continue providing daycare services, subject to action by the department pursuant to section 39-1113, Idaho Code.

SECTION 8. That Section 39-1107, Idaho Code, be, and the same is hereby amended to read as follows:

39-1107. FEES. (1) The department shall establish by rule the maximum total fee to be assessed for a basic daycare license which shall not exceed ~~one three hundred seventy-two~~ one hundred thirty-two dollars (\$132) for daycare centers with more than twenty-five (25) children in attendance at any given time, two hundred fifty dollars (\$250) for daycare centers with thirteen (13) to twenty-five (25) children in attendance at any given time and one hundred dollars (\$100) for group daycare facilities homes. Criminal history background check fees shall be in addition, but at actual cost. No other fees shall be charged for each license period. The department may allocate the fees to daycare licensing administration costs as it deems appropriate.

(2) The department is authorized to utilize Idaho child care program funds as otherwise allowed by law to pay for the costs associated with ~~certification and~~ licensing of daycare facilities to the extent that fees collected from the facilities do not fully cover such costs. It is the intent of the legislature that licensing fees and Idaho child care program funds shall fully fund daycare facility licensing administration.

SECTION 9. That Section 39-1108, Idaho Code, be, and the same is hereby amended to read as follows:

39-1108. LOCAL OPTION. If a city or county, within its respective jurisdiction, has adopted an ordinance for regulation and/or licensing of daycare services, then the provisions of this chapter shall not apply with such city or county unless the ordinance is subsequently repealed. To qualify for exemption, regulation of ~~centers~~ daycare facilities, owners, operators and staff must include a criminal history background check at least as stringent as the check required in section 39-1105, Idaho Code, compliance with safety standards at least as stringent as required in section 39-1109, Idaho Code, compliance with health standards at least as stringent as required in section 39-1110, Idaho Code, compliance with immunization requirements at least as stringent as required in section 39-1118, Idaho Code, and compliance with training requirements at least as stringent as required in section

39-1119, Idaho Code. Cities and counties are hereby granted authority and may adopt ordinances for regulation and/or licensing of daycare ~~services~~.

SECTION 10. That Section 39-1109, Idaho Code, be, and the same is hereby amended to read as follows:

39-1109. SAFETY STANDARDS. (1) Daycare facilities, owners and operators shall comply with the following safety standards in the area of the daycare facility in which daycare is provided:

(a) Adequate fire and smoke alarms;

(b) A functional telephone located on the daycare premises during the hours of operation;

(c) Adequate fire extinguishers;

(d) Adequate exits;

(e) Firearms or other weapons which are stored on the premises of a daycare facility must be kept in a locked container that is inaccessible to children while daycare attendees are present;

(f) Pools, hot tubs, ponds and other bodies of water that are on the daycare facility premises must provide the following safeguards:

(i) The area surrounding the body of water must be fenced and locked in a manner that prevents access by children and meets the following requirements:

1. The fence must be at least four (4) feet high with no vertical opening more than four (4) inches wide, be designed so that a young child cannot climb or squeeze under or through the fence, surround all sides of the pool and have a gate that is self-closing and that has a self-latching mechanism in proper working order out of the reach of young children;

2. If the house forms one (1) side of the barrier for the pool, all doors that provide unrestricted access to the pool must have alarms that produce an audible sound when the door is opened;

3. Furniture or other large objects must not be left near the fence in a manner that would enable a child to climb on the furniture or other large object and gain access to the pool; and

(ii) If the area surrounding a pool, hot tub, pond or other body of water is not fenced and locked, there must be a secured protective covering that will not allow access by a child;

(iii) Wading pools must be empty when not in use;

(iv) Children must be under direct supervision of ~~an~~ at least one (1) adult staff member while using a pool, hot tub, pond or other body of water; and

(v) A minimum of a four (4) foot high fence must be present that prevents access from the daycare facility premises if the daycare premises are adjacent to a body of water; and

(g) The owner or operator of a daycare facility shall ensure that at all times when a child or children are present in attendance, at least one (1) adult staff member on the premises has current certification in pediatric rescue breathing and first-aid treatment from a certified instructor.



(2) No fire standards developed pursuant to this chapter shall be more stringent than the standards contained in the International Fire Code, as adopted by Idaho.

(3) ~~An~~ At least one (1) adult staff member must be present at all times during business hours on the daycare facility premises when a child or children are in attendance.

(4) ~~In addition to the safety standards identified in subsection (1) of this section, safety standards shall be established by the department to govern t~~The maximum allowable child:staff ratio of children to staff subject to shall be a maximum of twelve (12) children or twelve (12) points, whichever is less, per staff member using the following ~~restrictions point~~ system:

(a) ~~In no event shall the child-staff ratio require more than one (1) staff member to six (6) children for all children age twenty-four (24) months or less; more than one (1) staff member to eight (8) children for all children above age twenty-four (24) months but less than three (3) years; more than one (1) staff member to ten (10) children for all children age three (3) years but less than four (4) years; more than one (1) staff member to twelve (12) children for all children age four (4) years but less than five (5) years; and more than one (1) staff member to eighteen (18) children for all children whose age is five (5) years or more. The maximum group size for all groups shall not exceed twice the number of children allowed for a single staff member A child under the age of eighteen (18) months shall equal two (2) points.~~

Number of Children Allowed and Maximum Group Size Table

Number of required staff	Children: birth to twenty- four (24) months	Children: above twenty- four (24) months but less than three (3) years	Children: three (3) years but less than four (4) years	Children: four (4) years but less than five (5) years	Children: five (5) years or more
		four (4) years	four (4) years	five (5) years	five (5) years or more
1	6	8	10	12	18
2	12	16	20	24	36
Maximum group size	12	16	20	24	36

(b) ~~The maximum ratio of children to staff in mixed age groups shall be determined by the age of the youngest child in attendance A child in attendance eighteen (18) months of age to under five (5) years of age shall equal one (1) point.~~

(c) ~~All adults providing direct supervision to the children shall be counted as staff for purposes of computing a child-staff ratio. Employees sixteen (16) and seventeen (17) years of age under the supervision of an adult employee, when providing direct supervision to children, may be counted as staff for the purposes of computing the child-staff~~

~~ratio~~ A child in attendance five (5) years of age to under thirteen (13) years of age shall equal one-half (1/2) point.

~~(d) Each child shall count as one (1) child for purposes of computing a child-staff ratio.~~

~~(e) Daycare facilities shall have a maximum allowable child-staff ratio based on the age of the children in attendance. The maximum group size is twelve (12) children. If more than two (2) children are in attendance under the age of two (2) years, the maximum group size shall be ten (10) children. If three (3) or more children under the age of two (2) years are in attendance, the maximum group size shall be nine (9) children.~~

#### Daycare Facility Ratio and Maximum Group Size Table

	No children under the age of two (2) years	No more than two (2) children under the age of two (2) years	Three (3) or more children under the age of two (2) years
Maximum group size	12	10	9

~~(f) Family A child of an owner or operator in attendance at a daycare homes facility shall not provide daycare services for more than six (6) be included in the point assignment or counted in calculating the child:staff ratio, provided that other related children at a time in attendance shall be included.~~

SECTION 11. That Section 39-1110, Idaho Code, be, and the same is hereby amended to read as follows:

39-1110. HEALTH STANDARDS. ~~Daycare facilities~~ Owners and operators shall comply with the following health standards:

(1) Food for use in daycare facilities shall be prepared and served in a sanitary manner with sanitized utensils and on surfaces that have been cleaned, rinsed and sanitized prior to use to prevent contamination;

(2) All food that is to be served in daycare facilities shall be stored in such a manner that it is protected from potential contamination;

(3) Diaper changing shall be conducted in such a manner as to prevent the spread of communicable diseases;

(4) Sleeping and play areas, restrooms and fixtures shall be maintained in a safe, sanitary condition;

(5) Children and ~~facility personnel~~ staff shall be provided with individual or disposable towels for handwashing and the handwashing area shall be equipped with soap and hot and cold running water;

(6) The water supply, where the source is other than a public water system, must be approved in accordance with the rules adopted by the department;

(7) Medicines, cleaning supplies and other hazardous substances must be stored out of reach of children;

(8) Smoking or alcohol consumption is prohibited on the premises of a daycare facility during the daycare facility's hours of operation; and

(9) Representatives of health and safety inspectors shall not be denied access to a daycare facility during hours of operation for purposes of control of communicable disease or inspection.

SECTION 12. That Section 39-1111, Idaho Code, be, and the same is hereby amended to read as follows:

39-1111. RULES AUTHORIZED. In order to implement the provisions of this chapter, the department, in addition to other duties imposed by law, is hereby authorized and directed through rulemaking to establish procedures necessary to implement the provisions of this chapter including procedure for submission of required certificates as provided in sections 39-1109 and 39-1110, Idaho Code, and to conduct the criminal history background check provided in section 39-1105, Idaho Code.

The rulemaking authority granted in this section shall be limited to the specific standards and procedures required by this chapter.

SECTION 13. That Section 39-1113, Idaho Code, be, and the same is hereby amended to read as follows:

39-1113. DENIAL, SUSPENSION OR REVOCATION OF LICENSE. (1) A license may be denied, suspended or revoked by the department if the department finds that the ~~applicant~~ owner or licensee operator does not comply with the provisions of this chapter.

(2) No person who pleads guilty to, has been found guilty of or received a withheld judgment for any offense involving neglect or any physical injury to, or other abuse of a child including the following offenses or a ~~similar provision~~ similarly defined offense in another jurisdiction, shall be eligible for issued a basic daycare license under the provisions of this chapter:

(a) Felony injury of a child, section 18-1501, Idaho Code.

(b) The sexual abuse of a child under sixteen years of age, section 18-1506, Idaho Code.

(c) The ritualized abuse of a child under eighteen years of age, section 18-1506A, Idaho Code.

(d) The sexual exploitation of a child, section 18-1507 or 18-1507A, Idaho Code.

(e) Sexual abuse of a child under the age of sixteen years, section 18-1506, Idaho Code.

(f) Lewd conduct with a child under the age of sixteen years, section 18-1508, Idaho Code.

(g) The sale or barter of a child for adoption or other purposes, section 18-1511, Idaho Code.

(h) Murder in any degree, section 18-4001 or 18-4003, Idaho Code.

(i) Assault with intent to murder, section 18-4015, Idaho Code.

(j) Voluntary manslaughter, section 18-4006, Idaho Code.

(k) Rape, section 18-6101 or 18-6108, Idaho Code.

(l) Incest, section 18-6602, Idaho Code.

(m) Forcible sexual penetration by use of foreign object, section 18-6608, Idaho Code.

(n) Abuse, neglect or exploitation of a vulnerable adult, section 18-1505, Idaho Code.

(o) Aggravated, first degree, second degree and third degree arson, sections 18-801 through 18-805, Idaho Code.

(p) Crimes against nature, section 18-6605, Idaho Code.

(q) Kidnapping, sections 18-4501 through 18-4503, Idaho Code.

(r) Mayhem, section 18-5001, Idaho Code.

(s) Poisoning, section 18-4014 or 18-5501, Idaho Code.

(t) Possession of sexually exploitative material, section 18-1507A, Idaho Code.

(u) Robbery, section 18-6501, Idaho Code.

(v) Stalking in the first degree, section 18-7905, Idaho Code.

(w) Video voyeurism, section 18-6609, Idaho Code.

(x) Enticing of children, section 18-1509 or 18-1509A, Idaho Code.

(y) Inducing individuals under eighteen years of age into prostitution, section 18-5609, Idaho Code.

(z) Inducing person under eighteen years of age to patronize a prostitute, section 18-5611, Idaho Code.

(aa) Any felony punishable by death or life imprisonment.

(bb) Attempt, section 18-306, Idaho Code, conspiracy, section 18-1701, Idaho Code, or accessory after the fact, section 18-205, Idaho Code, to commit any of the crimes designated in this subsection.

(3) No person who has pleaded guilty to, been found guilty of or received a withheld judgment for any offense involving neglect or any physical injury to, or other abuse of a child, including the following offenses or ~~a similar provision~~ similarly defined offense in another jurisdiction shall be ~~eligible for~~ issued a basic daycare license for a period of five (5) years from the date of the conviction under the provisions of this chapter.

(a) Aggravated assault, section 18-905, Idaho Code.

(b) Aggravated battery, section 18-907(1), Idaho Code.

(c) Burglary, section 18-1401, Idaho Code.

(d) Felony domestic violence, section 18-918, Idaho Code.

(e) Felony under the uniform controlled substances act, chapter 27, title 37, Idaho Code.

(f) Felony theft, sections 18-2403 and 18-2407(1), Idaho Code.

(eg) Forgery of a financial transaction card, section 18-3123, Idaho Code.

(fh) Fraudulent use of a financial transaction card or number, section 18-3124, Idaho Code.

(gi) Forgery or counterfeiting, chapter 36, title 18, Idaho Code.

(j) Grand theft, section 18-2407(1), Idaho Code.

(hk) Misappropriation of personal identifying information, section 18-3126, Idaho Code.

(il) Insurance fraud, section 41-293, Idaho Code.

(jm) Damage to or destruction of insured property, section 41-294, Idaho Code.

(kn) Public assistance fraud, section 56-227, Idaho Code.

(lo) Provider fraud, section 56-227A, Idaho Code.

(mp) Attempted strangulation, section 18-923, Idaho Code.

(~~ng~~) Attempt, section 18-306, Idaho Code, conspiracy, section 18-1701, Idaho Code, or accessory after the fact, section 18-205, Idaho Code, to commit any of the crimes designated in this subsection.

(~~er~~) Misdemeanor injury to a child, section 18-1501(2), Idaho Code.

(4) A basic daycare facility license may be denied, suspended or revoked by the department if the department finds that the ~~daycare facility~~ owner or operator is not in compliance with the standards provided for in this chapter or criminal activity that threatens the health or safety of a child.

(5) A basic daycare facility license or privilege to operate a ~~family daycare home facility~~ shall be denied or revoked if a registered sex offender resides on the premises where daycare services are provided.

(6) The denial, suspension or revocation of a basic daycare license under this chapter may be appealed to the district court of the county in which the affected daycare facility is located and the appeal shall be heard de novo in the district court.

(7) No person shall apply and the department shall not accept an application from any person who has had a basic daycare license denied, suspended or revoked, until six (6) months have elapsed from the date of the denial, suspension or revocation.

SECTION 14. That Section 39-1114, Idaho Code, be, and the same is hereby amended to read as follows:

39-1114. ~~LIMITED APPLICATIONS VOLUNTARY LICENSE. (1) Any person providing daycare for four (4) or more children in a family daycare home shall not be required to be licensed, but shall comply with the requirements of section 39-1105, Idaho Code, for a criminal history check.~~

~~(2) Fire inspections may be conducted by department designated health and safety inspectors where necessary. The fire inspection certificate and the criminal history check shall be available for inspection on the premises.~~

~~(3) A family daycare home providing care for fewer than seven (7) children may elect to comply with the provisions of this chapter and upon a finding of compliance by the department, shall receive be issued a basic group daycare home license.~~

SECTION 15. That Section 39-1115, Idaho Code, be, and the same is hereby amended to read as follows:

39-1115. MISDEMEANOR. (1) It shall be a misdemeanor to operate a daycare facility within this state without first obtaining a basic daycare license from the department or to operate a daycare facility without posting a basic daycare license in a conspicuous place. A copy of this chapter shall be available on the premises at all times for staff and parents to read on request.

(2) If a daycare facility an owner or operator is found to be operating a daycare facility without a license, the licensing agency department may grant a grace period of no more than sixty (60) days to allow the daycare facility to come into compliance with the provisions of this chapter.

(3) It shall be a misdemeanor to ~~operate a family daycare home caring for four (4) or more children without obtaining the criminal history check required in~~ violate any requirement of section 39-1105(5), Idaho Code; provided, that in the event of an initial citation for ~~violation of the provisions of this subsection~~ failure to obtain a required criminal history background check, if a person makes the applications and pay the application fees required within twenty (20) days, the complaint shall be dismissed. Operation of a family ~~daycare~~ child care home caring for four (4) or more children after failure to pass a required criminal history background check shall be a misdemeanor.

~~(4)~~ It is a misdemeanor for any person to provide daycare ~~services~~ if such person has pleaded guilty to, has been found guilty of or has received a withheld judgment in this state's courts, in any other state's courts, or in any federal court, of any offense listed under the provisions of section 39-1113, Idaho Code.

SECTION 16. That Section 39-1117, Idaho Code, be, and the same is hereby amended to read as follows:

39-1117. NO LIABILITY TO STATE OR POLITICAL SUBDIVISIONS. The issuance of a license or certificate pursuant to this chapter shall not constitute a representation of affirmance to any person that the daycare facility to which a license is issued to an owner or operator is free from risk with regard to the standards in this chapter. The state, its political subdivisions or any employees or agents of the state or its political subdivisions shall not be liable for nor shall a cause of action exist for any loss or damage based upon the failure of any person to meet the standards contained in this chapter.

SECTION 17. That Section 39-1118, Idaho Code, be, and the same is hereby amended to read as follows:

39-1118. IMMUNIZATION REQUIRED. (1) Within fourteen (14) days of a child's initial attendance at any licensed daycare facility, the parent or guardian shall provide a statement to the owner or operator of the daycare facility regarding the child's immunity to certain childhood diseases. This statement shall provide a certificate signed by a physician or a representative of a district health department, that the child has received, or is in the process of receiving immunizations as specified by the board; or can effectively demonstrate, through verification in a form approved by the department, immunity gained through prior contraction of the disease.

Immunizations required and the manner and frequency of their administration shall be as prescribed by the board and shall conform to recognized standard medical practices in the state. The board shall promulgate appropriate rules for the enforcement of the required immunization program and specify reporting requirements of daycare facilities, pursuant to the provisions of chapter 52, title 67, Idaho Code.

(2) Any minor child whose parent or guardian has submitted to ~~officials~~ an owner or operator of a licensed daycare facility a certificate signed by a physician licensed by the state board of medicine stating that the physical condition of the child is such that all or any of the required immunizations

1 would endanger the life or health of the child shall be exempt from the pro-  
2 visions of this section. Any minor child whose parent or guardian has sub-  
3 mitted a signed statement to officials of the daycare facility stating their  
4 objections on religious or other grounds shall be exempt from the provisions  
5 of this section.

6 SECTION 18. That Section 39-1119, Idaho Code, be, and the same is hereby  
7 amended to read as follows:

8 39-1119. TRAINING REQUIREMENTS. The owner or operator of a ~~day-care~~  
9 daycare center shall ensure that each ~~employee~~ staff member receives four  
10 (4) hours of ongoing training every twelve (12) months after the ~~employee's~~  
11 staff member's hire date.